

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA,</b>	)	<b>Case No. 2:12-cv-648</b>
	)	
	)	<b>Judge Marbley</b>
<b>Plaintiff,</b>	)	
	)	<b>Magistrate Judge Kemp</b>
<b>v.</b>	)	
	)	
<b>PAULA A. HABIB, MD,</b>	)	<b>PLAINTIFF’S UNOPPOSED</b>
	)	<b>MOTION FOR</b>
	)	<b>EXTENSION OF TIME TO</b>
<b>Defendant.</b>	)	<b>RESPOND TO DEFENDANT’S</b>
	)	<b>MOTION TO DISMISS</b>

Plaintiff, BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA, by its attorneys, Donald A. Murday and Craig M. Bargher of Chittenden, Murday & Novotny LLC, pursuant to Local Civil Rule 7.3, states as follows for its Motion for Extension of Time to Respond to Defendant’s Motion to Dismiss:

1. Defendant filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on November 13, 2012.
2. Plaintiff’s response to the Motion to Dismiss is currently due on or before December 17, 2012.
3. The parties have reached a settlement in this matter and are currently finalizing the necessary settlement documents.
4. Plaintiff’s counsel consulted with Cesar Gavidia, Esq., who represents Defendant, and he confirmed that Defendant does not oppose this motion.
5. In order to finalize the necessary settlement documents, Plaintiff respectfully requests an extension of time to January 31, 2013 to file its response to the Motion to Dismiss, if necessary. The parties anticipate finalizing the necessary settlement documents and submitting a

Stipulation and Agreed Order of Dismissal before January 31, 2013.

WHEREFORE, for the reasons set forth above, Plaintiff, BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA, respectfully requests that this Court enter an Order, in the form submitted separately herewith, granting Plaintiff to and including January 31, 2013, to file its response to Defendant's Motion to Dismiss.

**BERKSHIRE LIFE INSURANCE COMPANY  
OF AMERICA**

By: /s/ Ryan P. Sherman (with permission)  
by /s/ Craig M. Bargher  
One of Its Attorneys

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**CERTIFICATE OF SERVICE**

It is hereby certified that that foregoing has been filed via the electronic filing system on December 17, 2012. Notice of filing will be performed by the Court's electronic filing system, and Parties may access the document through the electronic filing system. The undersigned also hereby certifies that a true and correct copy of the foregoing was served upon:

Paula A. Habib, MD  
1365 Boylston Street  
Boston, Massachusetts 02215-3919

by enclosing true and correct copies thereof in a duly addressed, postage prepaid envelope and depositing same in the U.S. Mail chute at 303 W. Madison Street, Chicago, Illinois, on or before the hour of 5:00 p.m. this **17th** day of **December, 2012**.

/s/ Ryan P. Sherman (with permission)  
by /s/ Craig M. Bargher  
Ryan P. Sherman  
Craig M. Bargher